

ORIGINAL

Of Counsel:

**ROECA LURIA HIRAOKA LLP**

A Limited Liability Law Partnership

APRIL LURIA 4687-0

*aluria@rlhlaw.com*

Davies Pacific Center

841 Bishop Street, Ste. 900

Honolulu, Hawai'i 96813-3917

Telephone: (808) 538-7500

Facsimile: (808) 521-9648

Attorney for Defendants State of Hawaii,  
Hawaii Department Public Safety, Jodie F.  
Maesaka-Hirata, Tommy Johnson, Scott  
Jinbo, Jeanette Baltero, Larry Hales, and  
Shari Kimoto

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

JUN 13 2012

at 2 o'clock and 00 min. P.M.  
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Estate of CLIFFORD MEDINA, deceased, by  
and through BEVERLY LOKELANI  
MEDEIROS, as Administrator; MOLLIANN  
WALTJEN; BEVERLY LOKELANI  
MEDEIROS, in her individual capacity;  
KAWAHINEKUUIPOLANI CLIFFANN  
MEDEIROS and ROSEANNA MEDEIROS,

Plaintiffs,

vs.

STATE OF HAWAII; HAWAII  
DEPARTMENT OF PUBLIC SAFETY;  
JODIE F. MAESAKA-HIRATA, Director,  
Hawaii Department of Public Safety;  
CLAYTON FRANK, former Director, Hawaii  
Department of Public Safety; JOE W.  
BOOKER, JR., former Deputy Director,

CIVIL NO. **CV12 00340 SOM KSC**

**NOTICE OF REMOVAL;  
EXHIBIT "A" - "B";  
CERTIFICATE OF SERVICE**

Hawaii Department of Public Safety,  
Corrections Division; TOMMY JOHNSON,  
former Deputy Director, Hawaii Department  
of Public Safety, Corrections Division;  
SCOTT JINBO, Contract Monitor;  
JEANETTE BALTERO, Contract Monitor;  
CAROL PAYNE, Health Care Administrator;  
LARRY HALES, MAUREEN TITO, Program  
Administrator; SHARI KIMOTO, Mainland  
Branch Coordinator, Hawaii Department of  
Public Safety; CORRECTIONS  
CORPORATION OF AMERICA, a Maryland  
Corporation; Classification Supervisor  
CHRISTINE FRAPPIEA; Shift Supervisor  
JESUS GUILIN; Unit Manager FRANK  
GARCIA; Unit Manager TIMOTHY  
DOBSON; Senior Correctional Officer  
ALFRED TREJO; Assistant Warden BEN  
GRIEGO; Assistant Warden KALUM  
KALANI; Assistant Warden JODY  
BRADLEY; Warden TODD THOMAS;  
Assistant Chief of Security SEAN MEINER;  
and DOES 1 through 40, inclusive,

Defendants.

**NOTICE OF REMOVAL; CERTIFICATE OF SERVICE**

Pursuant to 28 U.S.C. § 1441(c), Defendants State of Hawaii, Hawaii  
Department Public Safety, Jodie F. Maesaka-Hirata, Tommy Johnson, Scott Jinbo,  
Jeanette Baltero, Larry Hales, and Shari Kimoto notice the removal of the above-  
captioned case from the Circuit Court of the First Circuit of the State of Hawaii,  
filed under Civil Cause No. 12-1-0441-05 (ECN), to this Court.

1. On or about May 23, 2012, Plaintiffs filed a Complaint against the above-captioned Defendants in the Circuit Court of the First Circuit of the State of Hawaii under Civil Cause No. 12-1-0441-05 (ECN). A copy of the Complaint is attached as Exhibit A.

2. In their Complaint, Plaintiffs assert the following claims against all Defendants: (1) wrongful death in violation of H.R.S. § 663-3 (Count 1); (2) negligence and gross negligence (Count 2); (3) cruel and unusual punishment in violation of Article I, section 12 of the Hawaii Constitution (Count 3); and (4) substantive due process violations under Article I, section 5 of the Hawaii Constitution (Count 4). Against all Defendants, except for the State of Hawaii and Hawaii DPS, Plaintiffs assert violations of the First, Eighth, and Fourteenth Amendments to the Constitution of the United States (Counts 5 and 8). Against the Corrections Corporation of America (“CCA”) Defendants, Plaintiffs assert a failure to properly supervise, hire, and train, pursuant to 42 U.S.C. § 1983 (Count 6), and against Hawaii DPS and CCA, Plaintiffs assert violations of Title II of the Americans with Disabilities Act (“ADA”) and Section 504 of the Rehabilitation Act of 1973 (Count 7).

3. This Court has jurisdiction under 28 U.S.C. § 1331. This action may be removed pursuant to 28 U.S.C. § 1441(c) because Plaintiffs’ Complaint alleges violations of federal statutes – 42 U.S.C. § 1983, Title II of the ADA, and §

504 of the Rehabilitation Act of 1973 – and the First, Eighth, and Fourteenth Amendments to the Constitution of the United States.

4. All Defendants consent to the removal of this case from the Circuit Court of the First Circuit of the State of Hawaii to the United States District Court for the District of Hawaii.

5. Defendants State of Hawaii, Hawaii Department Public Safety, Maesaka-Hirata, Johnson, Jinbo, Baltero, Hales, and Kimoto, file this Notice of Removal within thirty (30) days after initial service of the Complaint. This Notice is timely under 28 U.S.C. § 1446(b).

6. Defendants have filed a Notice of Filing Notice of Removal in the Circuit Court of the First Circuit of the State of Hawaii on behalf of Defendants. A true and correct copy of this Notice (exclusive of exhibits) is attached as Exhibit B.

WHEREFORE, Defendants State of Hawaii, Hawaii Department Public Safety, Maesaka-Hirata, Johnson, Jinbo, Baltero, Hales, and Kimoto,

/


/

/

/

respectfully request that this state action be removed to this Court.

DATED: Honolulu, Hawaii, JUN 13 2012.

  
\_\_\_\_\_  
APRIL LURIA  
Attorney for Defendants State of Hawaii,  
Hawaii Department Public Safety,  
Jodie F. Maesaka-Hirata, Tommy Johnson,  
Scott Jinbo, Jeanette Baltero,  
Larry Hales, and Shari Kimoto